

**ORIGINAL**

**Genevieve Morelli**  
Executive Vice President  
& General Counsel

**EX PARTE OR LATE FILED**

August 22, 1997

William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M St., N.W.  
Room 222  
Washington, D.C. 20554

AUG 22 1997

Re: CC Docket No. 96-262  
Ex Parte Communication

Dear Mr. Caton:

On August 21, 1997, Genevieve Morelli, Joseph Gillan, and Robert Aamoth, representing the Competitive Telecommunications Association ("CompTel"), and met with Tom Boasberg of Chairman Hundt's office, Kathy Franco of Commissioner Chong's office and Paul Gallant of Commissioner Quello's office to discuss the issues raised in CompTel's petition for reconsideration in the above-captioned proceeding. The attached written document was used during the meeting.

Please address any questions concerning this letter to the undersigned.

Sincerely,

*Genevieve Morelli*  
Genevieve Morelli

cc: Tom Boasberg  
Kathy Franco  
Paul Gallant

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**Access Reform Reconsideration**

**I. The imposition of a PICC on multi-line business customers is unjustified, discriminatory, and competitively prejudicial.**

- A. There is no cost-justification to impose a \$2.75 per line PICC on multi-line business subscribers.
- B. Imposing a PICC on multi-line business customers *creates* a new form of implicit cross-subsidization to *replace* the implicit cross-subsidization that the Commission sought to eliminate in accordance with the Act.

*... through both our Universal Service Order and this First Report and Order on access reform, interstate implicit support for universal service will be identified and removed from interstate access charges...<sup>1</sup>*

- C. The multi-line PICC has a dramatic impact on the access costs of smaller interexchange carriers that specialize in serving smaller business customers. Any delay in the market process that would impose these higher charges directly on multi-line businesses will irreparably harm interexchange competition, compounding the difficulty that small carriers are experiencing entering the local market.

\* If the market successfully flows through the entire charge to multi-line businesses, the harm to interexchange competition is reduced, but only because the multi-line customer sees a significant and unjustified increase in its cost of service.

**D. Recommendation**

- 1. CompTel supports the *end-point* of the Commission's plan to eliminate the implicit subsidization in access charges.
- 2. The transitional imposition of a PICC on multi-line business customers, however, replaces one form of cross-subsidy (high volume to low volume) with another (multi-line business customers to residential customers), seriously jeopardizing interexchange

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<sup>1</sup> First Report and Order, CC Docket 96-262, ¶ 8.

competition and/or artificially increasing prices to small multi-line business customers.

3. CompTel recommends simplifying the transition by implementing direct reductions in the usage subsidy, without first shifting the subsidy to smaller, multi-line business customers. This approach is:

- \* *fairer*, because it does not substitute one subsidy for another;
- \* *simpler*, because it will require fewer administrative resources; and,
- \* *pro-competitive*, because it does not arbitrarily increase the access costs of carriers specializing in the smaller, multi-line, business market.

**II. The Commission-prescribed changes to tandem switched transport rates are antithetical to the economic pricing and non-discrimination principles that are the goals of the access reform proceeding.**

- A. The prescribed increase in transport prices violates the original transport goals to: (1) promote the efficient use of transport facilities, (2) facilitate full and fair interexchange competition, and (3) avoid interfering with the development of access competition.<sup>2</sup>
  1. The efficient use of transport facilities requires that the *price*-relationship between transport options reflect the underlying *cost*-relationship.
  2. Full and fair interexchange competition requires that each transport option be offered under non-discriminatory rate structures, cost methodologies and price levels.
  3. Sound access competition requires the same opportunity to competitively supply dedicated and tandem-switched transport services.
- B. Tandem-switched transport and dedicated transport are competitively significant because the ability to use dedicated transport is dependent upon a carrier having sufficient traffic volume to a particular end-office. Developing prices from

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<sup>2</sup> Report and Order, Docket 91-213, ¶ 5.

inconsistent cost methodologies and/or rate structures discriminates between carriers based on size, thereby distorting interexchange competition.

- C. Tandem-switched transport is the transport configuration used to serve smaller markets. Inflated tandem-switched transport rates thus discourage competition in rural areas and may necessitate waiving the Act's geographic averaging requirement.
- D. Prescribed increases in tandem-switched transport rates will far exceed their underlying economic costs, moving these rates *farther* from economically efficient levels, in direct contravention of the Commission's pricing goal:

*We recognize that the prescriptive measures that we implement today represent the first step toward our goal ... of moving such [interstate] access charges toward economically efficient levels.<sup>3</sup>*

- E. The prescriptive increases in tandem-switched transport rates runs counter to the pro-competitive framework of the access reform proceeding. As the Order itself summarized:

*In the NPRM, we identified two separate ways to continue this process [access reductions toward economically efficient levels] in the future -- a prescriptive approach in which we actively set rates at economic cost levels, and a market-based approach that relies on competition itself to drive access charges down to forward-looking costs.<sup>4</sup>*

The approach adopted singularly for tandem-switched transport rates violates this framework by using regulatory *prescription* to move rates *farther* from their economic cost.

- F. The Commission's transport decision will prevent the convergence between local and long distance transport and termination prices, a goal adopted by the Commission in its Interconnection Decision.

*Ultimately, we believe that the rates that local carriers impose for the transport and termination of local traffic and for the transport and termination of long distance traffic should converge.<sup>5</sup>*

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<sup>3</sup> First Report and Order, CC Docket 96-262, ¶ 44.

<sup>4</sup> Ibid.

<sup>5</sup> First Report and Order, Docket 96-98, ¶ 1033.

- G. The prescribed tandem switching rates will provide carriers distorted incentives for network reconfiguration, encouraging a proliferation of under-utilized dedicated transport facilities.
- H. Tandem-switched transport rates should not depend upon decisions entirely within the incumbent LEC's control.
  - 1. The partitioned rate structure requires that interexchange carriers separately purchase dedicated circuits to reach remote, multiple tandems, significantly increasing the cost of tandem-switched transport. Dedicated transport users are permitted to purchase transport on a airline-mileage basis, even where routings are identical.
  - 2. Calculating tandem-switched transport rates using the LEC's "actual" usage ignores the LEC's exclusive control over the number of circuits and, to a large extent, traffic volumes as well. Thus, the incumbent LEC (and not the tandem-switched transport customer) determines circuit utilization by deciding whether to include local and intraLATA toll traffic on the same trunk groups as access traffic.

**III. The Commission should harmonize access-transport prices with UNE-transport rates -- beginning by reconsidering its decision to prescribe increases in interstate tandem-switched transport prices.**

- A. The goal of economically cost-based transport prices is within reach. Existing rate levels are reasonably close to cost-based levels.
- B. Retaining existing tandem-switched transport rates will only extend the Commission mandated phase-out of the TIC by an average of 6 months.
- C. The Commission has made clear that interexchange carriers may obtain UNE-priced transport for their own end-users, and adopted a further notice to apply this principle on a non-discriminatory basis across all transport purchasers.